

## INTRODUCTION

Independent claims 20 and 22 have been amended to “consisting essentially of” claims in order to obtain a rapid allowance of the case.

The present claims now define a method of treating acne caused by the bacterium *Propionibacterium acnes*, by topically applying to the skin of a patient needing treatment for such acne, a composition consisting essentially of grape seed extract and green tea extract as the active ingredients in an amount sufficient to inhibit the growth of the bacterium *Propionibacterium acnes*. The patent application claims also define a topical composition for the treatment of acne caused by the bacterium *Propionibacterium acnes* consisting essentially of these two active ingredients.

The use of the “comprising essentially of” phrase excludes all other active ingredients from the claims.

## THE PRIOR ART REJECTIONS

### A. The Anticipation Rejection

The rejection of prior claims 20-23 under 35 U.S.C. § 102(b) as unpatentable over Murad (U.S. Patent No. 6,296,88) is respectfully traversed. The “consisting essentially of” amendment to the claims excludes the presence of active ingredients other than grape seed extract and green tea extract. The Murad reference, however, does not disclose a composition containing only grape seed extract and green tea extract as the active ingredients. The Murad reference discloses and claims a skin cleansing pharmaceutical composition containing active ingredients that are excluded from

Applicant's invention. First, Murad requires an acidic component having a hydroxy acid or tannic acid "in an amount sufficient to exfoliate at least a portion of the skin", (see col. 3, lines 21-26 and claim 1, col. 31, lines 57-61). Second, Murad requires "hydrogen peroxide in an amount sufficient to cleanse the skin" (see col. 3, lines 26-27 and claim 1, col. 31, lines 62-63). A therapeutically effect amount of each of these two active ingredients is required. (See col. 4, lines 12-16).

Moreover, as the Final Office Action admits "Murad does not disclose specifically inhibiting the growth of *Propionibacterium acnes*".

Therefore, it is respectfully requested that the 35 U.S.C. § 102(b) rejection be withdrawn.

B. The Obviousness Rejection

The rejection of prior claims 20-23 under 35 U.S.C. § 103(a) as unpatentable over Murad (U.S. Patent No. 6,296,880) in view of Murad (U.S. Patent No. 5,962,517) is respectfully traversed. For the reasons stated above, the "consisting essentially of" amendment to the claims excludes the presence of active ingredients other than grape seed extract and green tea extract. The '880 patent Murad reference, however, does not disclose a composition containing only grape seed extract and green tea extract as the active ingredients.

The second Murad reference (the '517 patent) suffers from the same deficiencies as the first Murad reference (the '880 patent) and additional ones. First, the '517 patent does not state that grape seed extract is useful against acne caused by

*Propionibacterium acnes*. The Final Office Action referenced column 1, lines 60-63 of the Murad '880 patent, which states that "[p]resent methods of treating acne attempt to address the three separate causes of acne: excess sebum production, keratinization disorders, and increases in the bacteria *Propionibacterium acnes*. The Final Office Action also references column 11, wherein grape seed extract is listed in a formulation along with numerous other active ingredients. Nowhere does the '517 patent state that grape seed extract is effective against this bacteria. Moreover, this formulation contains numerous active ingredients, excluded by the "consisting essentially of" amendment to Applicant's claims.

In addition, the formulation in column 11 of the '517 patent is a tablet formulation (see column 11, line 25), which would be orally administered, not topically, as claimed in Applicant's invention. There is no evidence that this formulation would even be effective topically.

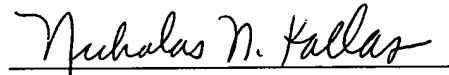
This Amendment After Final Action is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. Entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

CONCLUSION

Accordingly, based on the "consisting essentially of" amendments to claims 20 and 22, it is respectfully submitted that the case be allowed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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